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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,284	11/28/2000	Richard Leach Tagg		7550

7590 10/23/2002
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EXAMINER

ADDIE, RAYMOND W

ART UNIT PAPER NUMBER

3671

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/724,284

Applicant(s)

TAGG, RICHARD LEACH

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tension straps encircling adjacent barrier sections, as cited in Claim 27 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Double Patenting

2. Applicant is advised that should claim 35 be found allowable, claim 36 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-25, 29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodensohn # 5,104,255 in view of Brema et al. # 4,498,660.

Bodensohn discloses a barrier (1) comprising:

At least one barrier section (1) having a comparatively narrow upright portion, see Fig 2.

A comparatively wide base portion, including a female end and a male end.

An additional barrier section (1) identical to the at least one barrier section (1) and being mate able with said at least one barrier section.

At least one hinge pin (15, 16) that can be passed between said barrier section and additional barrier section, so that said mated barrier sections can be disposed in a rectilinear or curvilinear arrangement, in a gapless orientation, regardless of the angle of articulation existing between said barrier section and said additional barrier section. See col. 3, line 19-col. 4, line 49.

What Bodensohn does not disclose is the specific structure of the barrier ends.

However, Brema et al. teaches a modular barrier structure comprising:

A plurality of barrier segments (1) having both male and female ends,

each end provided with at least one cavity (6a, 6b) and at least one projections (3a, 3b) in the form of a nose portion. Each of said cavities and projections corresponding to a respective projection or cavity of a similar, and longitudinally adjacent, barrier segment. A hinge pin, received in a vertically extending aperture, formed by said cavities and projections, in order to join said barrier segments in a rectilinear or curvilinear arrangement. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the barrier segment of Bodensohn, with a plurality of cavities and grooves, as taught by Brema et al., in order to maximize the range of articulation, between longitudinally adjacent barrier segments, as reasonably suggested by Bodensohn. See Brema et al. Col. 2, line 20-col. 4, line 60.

In regards to Claims 19-23 Bodensohn discloses essentially all that is claimed, to include the use of a hinge pin (15, 16) to join adjacent barrier segments in an articulating, hinged relationship. Although, Bodensohn does not disclose is the specific structure of the barrier ends; Brema et al. teaches it is desirable to provide a plurality of corresponding cavities and projections, such as a nose portion, in a hinged arrangement with other identical barrier segments to form an articulated connection. Said cavities and projections able to receive a hinge pin (9b) for permitting articulated motion of said adjacent barrier segments (1). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the barrier

of Bodensohn, with a plurality of corresponding cavities and projections, as taught by Brema et al. in order to maximize the range of articulation, between longitudinally adjacent barrier segments.

In regards to claim 24 Bodensohn discloses said narrow upright portion of said barrier (1) is provided with an opening (9) in a side thereof.

In regards to Claims 29-33, 37 Bodensohn discloses the barrier comprises at least one male end (7) and at least one female end (7'). What Bodensohn does not disclose is providing a plurality of male and female end pieces forming interconnecting surfaces of rotation. However, Brema teaches it is desirable to provide a traffic barrier (1) with a plurality of interconnecting, substantially part-cylindrical projections and corresponding cavities, able to receive a vertical post, between adjacent barriers, in order to form a hinge-like means, to dispose the assembled barriers in a curvilinear orientation.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the barrier of Bodensohn, with a plurality of interconnecting projections and cavities, as taught by Brema et al., in order to maximize the range of articulation of the assembled barrier.

In regards to claims 35, 36 Bodensohn and Brema et al. both disclose the barrier sections are substantially identical in construction to one another.

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4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bodensohn in view of Brema et al., as applied to claim 25 above, and further in view of Smith et al. # 4,240,766.

Bodensohn in view of Brema et al. discloses essentially all that is claimed, to include a free standing base, if the barrier is utilized as a traffic barrier. See col. 4, lines 9-15.

What Bodensohn in view of Brema et al. do not disclose is the specific structure of said free standing base. However, Smith et al. discloses a traffic delineator (1) comprising: A vertical post (5) having a male threaded end and a generally dome-shaped base (2) having a female threaded recess (8) for receiving said post (5). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the traffic barrier of Bodensohn in view of Brema et al., with a threaded hinge pin and a correspondingly threaded base, as taught by Smith et al., in order to facilitate temporary assembly of the barrier segment. See Smith et al., Col. 2, ln 22-col. 3, ln 17.

5. Claim 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodensohn in view of Brema et al., as applied to claim 25 above, and further in view of Adcock WO 97/09485.

Bodensohn in view of Brema et al. discloses essentially all that is claimed, to include the use of connecting clamps and corresponding grooves (19), disposed in the narrow upright portion of said barrier segments; for providing additional connecting means between adjacent barrier elements.

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Although Bodensohn in view of Brema et al. does not disclose the specific structure of the connecting clamps; Adcock teaches a barrier system comprising a plurality of barrier segments (10, 11, 12) interconnected by a tension strap (3), such as a cable, chain or steel strap that encircles adjacent barrier sections and crosses from a 1st side of each barrier section to a second side. See page 5, lines 6-26, emphasis on lines 19-25. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the barrier of Bodensohn in view of Brema et al., with a tension strap, as taught by Adcock, in order to increase the load strength of the assembled barrier system, as suggested by Bodensohn.

Response to Arguments

6. Applicant's arguments with respect to claims 18-37 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 8/05/02 have been fully considered but they are not persuasive. Although the Applicant argues against the rejection of Claims 1-8, 13, 14; the Applicant does not specifically argue against rejections of Claims 9-12 nor against the references applied therein. Therefore, the Applicant is seen to be in agreement with the teachings of the prior art not specifically argued against.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

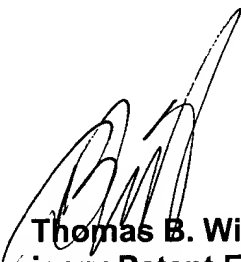
The newly filed independent claims (18, 25, 34) comprise additional structural features not provided for in the canceled independent claims.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 8:00 am to 2:00 pm, 6-8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-8623.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

RWA
10/17/2002